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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2012-0095]

[FXES11130900000-134-FF09E30000]

Endangered and Threatened Wildlife and Plants; Initiation of Status Review and 5-year Review of the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of status review and 5-year review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), under the authority of the Endangered Species Act of 1973, as amended (Act), announce the initiation of a status review of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (Preble's) throughout its range. We conduct status reviews to determine whether a

species should be listed as endangered or threatened under the Act. Following this status review, we will issue a 12-month finding on two petitions to delist Preble's. Because a status review also is required for the 5-year review of listed species under section 4(c)(2)(A) of the Act, we are electing to prepare these reviews simultaneously. At the conclusion of these simultaneous reviews, we will issue the 12-month finding on the petitions, as provided in section 4(b)(3)(B) of the Act, and make the requisite determination under section 4(c)(2)(B) of the Act based on the results of the 5-year review. Through this notice, we encourage all interested parties to provide us information regarding the Preble's. We also announce the availability of new information relevant to our consideration of the status of the Preble's.

DATES: To allow us adequate time to conduct these reviews, we request that we receive comments and information no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see ADDRESSES section, below) is 11:59 p.m. Eastern Time on this date. After **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, you must submit information using the U.S. mail or hand-delivery option provided in the ADDRESSES section below. Please note that we may not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: <http://www.regulations.gov>.* Search for Docket No. **FWS-R6-ES-2012-0095** and then follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R6-ES-2012-0095; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Request for Information** section below for more details).

FOR FURTHER INFORMATION CONTACT: Susan Linner, Field Supervisor, Colorado Ecological Services Office; mailing address P.O. Box 25486, DFC (MS 65412), Denver, CO 80225; telephone (303) 236-4773; office location: 134 Union Boulevard, Suite 670, Lakewood, CO 80228. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

For a detailed description of Federal actions concerning the Preble's, please refer

to the May 13, 1998, listing under the Act (63 FR 26517); the July 10, 2008, final rule amending the listing determination for the Preble's (73 FR 39790); and our August 5, 2011, reinstatement of listing protections for the Preble's (76 FR 47490).

On December 23, 2003, we received two nearly identical petitions, one from the State of Wyoming's Office of the Governor and the second from Coloradans for Water Conservation and Development, seeking to remove the Preble's from the Federal List of Endangered and Threatened Wildlife (Freudenthal 2003; Sonnenberg 2003). The petitions maintained that Preble's should be delisted based on the taxonomic revision suggested by Ramey *et al.* (2003) and new distribution, abundance, and trends data that suggested the subspecies was no longer endangered or threatened (Freudenthal 2003, p. 1; Sonnenberg 2003, p. 1).

On July 10, 2008, we published a final rule amending the listing for the Preble's by removing protections for the Preble's in Wyoming (73 FR 39790). In that rule, we determined that the Preble's was not threatened throughout all of its range, but the portion of its range located in Colorado represented a "significant portion of the range" (SPR) where the Preble's should retain its threatened status.

On June 23, 2009, a petition for review of the 2008 amendment to the listing was filed in the United States District Court for the District of Colorado. The petitioners challenged, among other things, our interpretation of SPR as applied to the Preble's decision. The Service filed a motion for voluntary remand and vacatur of the 2008

Preble's amended listing decision. On July 7, 2011, the United States District Court for the District of Colorado granted this motion and ordered the 2008 amended listing decision vacated and remanded as of August 6, 2011 (*Center for Native Ecosystems, et al. v. Salazar, et al.*, 09–cv–01463–AP–JLK, 2011 U.S. Dist. LEXIS 72664). On August 5, 2011, the Service issued a final rule complying with the court order and reinstating the regulatory protections under the Act for the Preble's in Wyoming, effective August 6, 2011 (76 FR 47490).

The court also ordered that by June 1, 2013, the Service must complete its status review of the Preble's and publish a 12-month finding in the **Federal Register** for the petitions submitted by the State of Wyoming and Coloradans for Water Conservation and Development to delist the Preble's.

On December 9, 2011, we published a notice of our draft policy (76 FR 76987) to establish a joint interpretation and application of SPR with the National Marine Fisheries Service that reflects a permissible reading of the law and its legislative history, and minimizes undesirable policy outcomes, while fulfilling the conservation purposes of the Act. To date, our draft policy on SPR has not been finalized.

Background

The Preble's is recognized as 1 of 12 subspecies of meadow jumping mouse (*Zapus hudsonius*), a species that ranges from the Pacific Coast of Alaska to the Atlantic

Coast and from the northern limit of forests south to New Mexico, Oklahoma, and Georgia (Hafner *et al.* 1981, p. 501; Hall 1981, p. 843; Kruttsch 1954, pp. 420-421). Meadow jumping mice are small rodents with long tails, large hind feet, and long hind legs. Total length of an adult is approximately 7 to 10 inches (187 to 255 millimeters), with the tail of 4 to 6 inches (108 to 155 millimeters) comprising about 60 percent of that length (Kruttsch 1954, p. 420; Armstrong *et al.* 2011, p. 189).

The Preble's is found along the foothills in southeastern Wyoming southward along the eastern edge of the Front Range of Colorado to Colorado Springs in El Paso County, Colorado (Hall 1981, p. 844; Clark and Stromberg 1987, pp. 184-188; Armstrong *et al.* 2011, p. 189; Clippenger 2002, pp. 14-15, 20). Typical habitat for the Preble's is comprised of well-developed riparian vegetation with adjacent, relatively undisturbed grassland communities and a nearby water source (Bakeman 1997, pp. 22-31). Preble's are typically captured in areas with multi-storied cover with an understory of grasses or forbs or a mixture thereof (Bakeman 1997, pp. 22-31; Schorr 2001, pp. 23-24). The shrub canopy is often willow (*Salix* spp.), although other shrub species may occur (Shenk and Eussen 1998, p. 9-11). Trainor *et al.* (2007, pp. 471-472) found that high-use areas for the Preble's tended to be close to creeks and were positively associated with the percentage of shrubs, grasses, and woody debris. Hydrologic regimes that support Preble's' habitat range from large perennial rivers, such as the South Platte River, to small drainages only 3 to 10 feet (1 to 3 meters) in width.

Meadow jumping mice are primarily nocturnal or crepuscular (active during

twilight), but also may be active during the day. The Preble's uses uplands at least as far out as 330 feet (100 meters) beyond the 100-year floodplain (Shenk and Sivert 1999, p. 11; Ryon 1999, p. 12; Schorr 2001, p. 14; Trainor *et al.* 2012). While Preble's dispersal capabilities are thought to be limited, in one instance a Preble's was documented moving as far as 0.7 mile (1.1 kilometers) in 24 hours (Ryon 1999, p. 12). The Preble's typically enters hibernation in September or October and emerges the following May (Whitaker 1963, p. 5; Meaney *et al.* 2003, p. 621).

For additional information on the biology of this subspecies, see the May 13, 1998, final rule to list the Preble's as threatened (63 FR 26517) and the October 8, 2009, proposal to revise critical habitat for the Preble's in Colorado (74 FR 52066).

Request for Information

To ensure our determination is based on the best available scientific and commercial information, we request information on the Preble's from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We are seeking any new information including:

- (1) Data from any systematic surveys for the Preble's, as well as any studies that may show distribution, status, population size, or population trends;
- (2) Information concerning the taxonomic status of the Preble's;

(3) Quantitative information regarding the life history, ecology, and habitat use of the Preble's;

(4) Information on the current and foreseeable threats faced by the Preble's in all or a significant portion of its range in relation to the five listing factors (as defined in section 4(a)(1) of the Endangered Species Act, as amended [16 U.S.C. 1531 *et seq.*]);

(5) Information regarding the effects of current and foreseeable land management on the status of the Preble's;

(6) Specific information on the potential effects of climate change on the Preble's and its habitat;

(7) Information demonstrating what, for the Preble's, might constitute an SPR in light of our December 9, 2011, draft policy on SPR (76 FR 76987); and

(8) Information regarding contact and interaction among Preble's populations or other information relevant to a distinct population segment analysis (see 61 FR 4722, February 7, 1996).

You may submit information concerning the status review or the 5-year review by one of the methods listed in the **ADDRESSES** section. If you submit information via

http://www.regulations.gov, your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and supporting documentation we receive and use in preparing a 12-month finding and 5-year review will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Colorado Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

New Information Available for Review

Pertinent information received, developed, or analyzed since our July 10, 2008, final rule amending the listing determination for the Preble's (73 FR 39790) is available for review on the Service's Web site <http://www.fws.gov/mountain-prairie/species/mammals/preble/>, or by contacting the Field Supervisor, Colorado Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**). This information includes both scientific publications and selected unpublished reports. Compilations of data, correspondence, and other information are also available on the Service's Web site. See the Federal eRulemaking Portal at *http://www.regulations.gov*

(Docket No. FWS-R6-ES-2012-0095) for additional information we receive during the comment period opened by this document.

References Cited

A complete list of all the references is available on the Internet at <http://www.regulations.gov> and upon request from the Field Supervisor, Colorado Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are staff members of the Colorado Ecological Services Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 15, 2012

Signed: G. Mendel Stewart

Acting Director, U.S. Fish and Wildlife Service

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